

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Edward N. Barthell	Art Unit:	3626
Serial No.:	10/649,127	Examiner:	Sheetal Rangrej
Filing Date:	August 27, 2003	Conf. No.:	4764
Title:	<i>Bio-Surveillance System and Method</i>		

DECLARATION UNDER 37 C.F.R. § 1.132

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Attorney Timothy Newholm, declare:

1. I have worked with the above named applicant and inventor and the assignee, Infinity Healthcare, with respect to the understanding the subject matter of the above-identified U.S. Patent Application ("the invention").
2. I have reviewed the claims of this Application.
3. At least during the duration of just before July 16, 2002 to October 11, 2002, I worked diligently with respect to communicating with Inventor Barthell to understand his invention and it's novelty with respect to the prior art and with Attorney Jay G. Durst in preparing and filing in the United States the patent application captioned above. Specifically:

A. On July 16, 2002, I participated in a teleconference with Dr. Barthell, who informed me of the invention in general terms and requested that I investigate possible related activities by a company called IBEX. I subsequently searched the records of the USPTO and was unable to find any relevant patents or published patent applications to IBEX.

B. On July 23, 2002, I participated in a teleconference with Dr. Barthell, in which I informed him that I had been unable to locate any relevant published patent applications or issued patents to IBEX. We also discussed the procedures for evaluating the patentability of his invention and for preparing and filing a patent application and scheduled a follow-up personal meeting for July 31, 2002.

C. On July 31, 2002, I met with Mr. Barthell to discuss the invention and to plan strategy for proceeding.

D. On August 2, 2002, I prepared an invention disclosure from the information given to me by Dr. Barthell and forwarded it to an associate in Washington, DC under cover of a letter requesting the performance of a patentability search. In my experience, such searches typically take two-to-four weeks to complete.

E. On August 21, 2002 through August 27, 2002, I evaluated the search results obtained from my Washington associate, conducted additional on-line searching of my own, and prepared a patentability report/opinion, which I relayed to Infinity Healthcare.

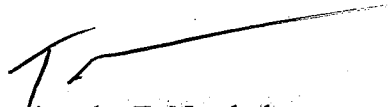
F. Sometime in the third week of September, 2002, I received authorization from Infinity Healthcare to proceed with the preparation and filing of a patent application. I requested the assistance of another attorney with our firm, Jay Durst, who worked on drafting a provisional application from October 3, 2002 to October 11, 2002, when the application was filed.

4. Many of the efforts referred to in paragraph 3 above are evidenced in the attached billing statements, Appendix A, which contemporaneously memorialized those efforts.

5. At all times referred to in paragraph 3 above, I proceeded and managed with diligence in that I worked reasonably hard on the application and in a continuous manner with respect to an expeditious and chronological handling of matters for which I am responsible.

6. I declare that all statements made herein are of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,



Timothy E. Newholm

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Mequon WI 53092-3363
USA

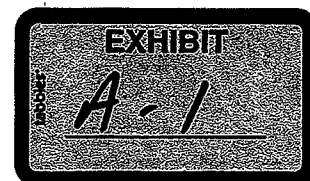
Page: 1
August 30, 2002
Account No: 144-003M
Statement No: 20119

Attn: Edward N. Barthell, M.D.

Preliminary Patentability/Clearance Investigation
for "Web Based Syndromic
Medical Surveillance System"

For Professional Services Performed Through 08/30/2002

	Hours
07/31/2002	
TEN Review disclosure materials; travel to Infinity headquarters and meet with R. Brotherhood and K. Pemble to obtain invention disclosure and plan strategy for seeking patent protection.	2.50
08/02/2002	
TEN Prepare invention disclosure suitable for use by a searcher; prepare system schematic; draft and forward letter to searcher requesting patentability search; teleconference with K. Pemble and R. Brotherhood re recent developments.	2.50
08/21/2002	
TEN Consider search results; conduct additional on-line searching.	3.50
08/22/2002	
TEN Dictate memo to file summarizing relevance of prior art developed in search; forward search results to K. Pemble and R. Brotherhood by email.	3.00
08/23/2002	
TEN Conduct additional searching; obtain	



Infinity Healthcare

Page: 2

August 30, 2002

Account No: 144-003M

Statement No: 20119

Preliminary Patentability/Clearance Investigation
for "Web Based Syndromic
Medical Surveillance System"

Hours

documents developed in search ad forward
same to K. Pemble, prepare for and
conduct teleconference with K. Pemble and
R. Brotherhood relaying search results;
dictate preliminary patentability report.

3.50

08/27/2002

TEN. Review, revise, finalize, and forward
preliminary patentability report.

2.00

For Professional Services

Attorney Summary

Attorney

Hours

Rate

Total

Timothy E. Newholm

17.00

Disbursements

Patent Copies

Federal Express invoice for delivery of
documents

Sullivan Research Services invoice for fee
for novelty search

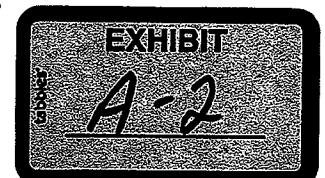
Total Disbursements Thru 08/30/2002

Total Current Charges

Balance Due

Please Remit

PLEASE PAY UPON RECEIPT; IN ANY EVENT, WITHIN 30 DAYS
OUR FEDERAL TAX I.D. NUMBER IS 39-1978883



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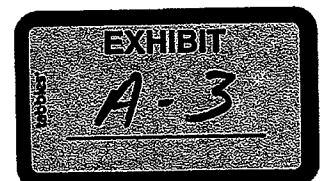
EMSystems, LLC
135 South 84th Street, Suite 150
Milwaukee WI 53214

Page: 1
November 26, 2002
Account No: 144-005M
Statement No: 24712

U.S. Patent Appln. Ser. No. 10/649,127
Filed: 8/27/03
Bio-Surveillance System and Method

For Professional Services Performed Through 10/31/2002

	Hours
10/03/2002	
JGD Study disclosure materials re bio-surveillance invention.	1.75
10/04/2002	
JGD Continue study of disclosure materials re bio-surveillance system; conduct search re same; begin to prepare patent application re same.	2.00
10/07/2002	
JGD Continue outline of patent application re bio-surveillance system and method; review and study disclosure and search materials; prepare patent application re same.	5.50
10/08/2002	
JGD Continue to prepare patent application re bio-surveillance system and method; review and study disclosure and search materials; prepare drawing figures.	5.75
10/09/2002	
JGD Continue to prepare patent application re bio-surveillance system and method; revise drawing figures re same; [REDACTED]	



Page: 2
November 26, 2002
Account No: 144-005M
Statement No: 24712

[REDACTED]

Hours

3.50

JGD Review and revise patent application re
bio-surveillance system and method;
prepare additional drawing figures re
same; annotate specification drawing
figures; prepare application supporting
documents for filing.

5.75

JGD Finalize patent application re
bio-surveillance system and method;
exchange messages with K. Pemble re
status; oversee preparation of
provisional application transmittal
papers; finalize provisional application
and file same in related papers in the
USPTO; forward copy of as-filed
application to K. Pemble.

1.75

For Professional Services

Attorney	Hours	Rate	Total
Timothy E. Newholm	2.50	[REDACTED]	[REDACTED]
Jay G. Durst	26.00	[REDACTED]	[REDACTED]

Photocopy charges
Postage/Express Mail
USPTO filing fees for new patent application
Total Disbursements Thru 10/31/2002

Total Current Charges

Balance Due

Please Remit

